

# Stand with Wojciech Sadurski: his freedom of expression is (y)ours

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In May of this year, we published an [open letter](#) in support of Professor Wojciech Sadurski, against whom the Polish ruling party and its allies brought several legal proceedings to silence his robust criticism of the government. It was signed by almost 800 colleagues, who joined in the expression of support and solidarity. The [Washington Post](#) published a subsequent piece by Sadurski himself about the capricious and punitive litigation against him, and [Euractiv](#) published our follow-up call for action by the EU

institutions in his defence. The campaign generated some political traction in the Netherlands, where the social liberal junior government party D66 asked parliamentary questions about his case (see [here](#) and [here](#)). Yet while the Dutch government underlined the central importance of free speech in a liberal democracy, it avoided the explicit request to address Sadurski's case through political means, either bilaterally or in the EU setting, on the basis that a government should not interfere in a pending court case that it has not itself brought.

Hence despite the publicity and solidarity expressed, the situation remains unchanged: three cases are still pending against Sadurski. He will stand trial in the first case on Wednesday 27 November in Warsaw (see [here](#) for background information). *Just days before the trial*, we write to seek renewal of your support for Wojciech Sadurski, and for your help in keeping the PiS strategy of coordinated legal harassment against him, and the threat of a criminal conviction and an award of damages against him as well as hefty legal fees, in the public eye. The party believes that it can ride out the storm, and that by ignoring the protests they will eventually disappear. But they will not.

## **PiS should drop its “sue to scare” actions, and the EU should act to protect those who speak out against illiberal governmental action**

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Our first aim is to convince the Polish ruling party that to continue to pursue sue-to-scare tactics against its critics at the expense of the Polish taxpayer is against its own reasonable self-interest. It is evident to most observers that these lawsuits are brought because politicians fear debating their critics and answering the penetrating criticisms which have been made. PiS should drop the charges it has brought, or have its allies drop them where they were brought on its behalf, so that the basis for each of the cases disappears. Showing support for outspoken Polish intellectuals is by no means an act of Poland-bashing. Poland, with its magnificent history and culture, is an important part of the European family. Admiration for Poland as a country is quite distinct from the concern about the practices of its current ruling party, PiS, which represents a substantial minority – 44% – of Polish voters.

Every EU citizen should be concerned with supporting the freedom of academics and critics who speak out in defence of democracy, however sharply. This is not only because the critics are speaking out to protect Polish and European democracy, but also because their freedom of expression directly impacts our own. If the critical reflections of scholars and commentators in Poland are curtailed through legal and other proceedings to silence them, all of us both inside and outside of Poland would no longer be informed about events within the European public and political space that we share.

Our second and related aim is focused on other actors, particularly on the EU institutions and EU member states. We want to say to them and to other institutional actors outside the EU who are concerned with the rule of law and human rights (such as the UN, the OSCE and the Council of Europe), that the time for sitting on the fence is up. When it

comes to such a sustained and targeted attempt to harass and silence intellectuals and critics, the time for exchanges of generalities, for thinking up ever new methods of monitoring, and for moving around the hot potato is over. The time has come to mount a coordinated effort to discourage and halt the oppression.

There is method to the PiS harassment, and it requires a cogent counter-effort to confront it. Polish and EU taxpayers should be able to expect some effectiveness from the institutions established on their behalf to deal with serious threats to liberal democracy. By any reasonable definition of liberal democracy, the harassment and hounding of critics who speak out in the public interest should be a bright red line. It should not be possible for any EU member state in 2019 to cross that red line without being officially challenged and confronted. Each of the institutional actors mentioned above, but particularly the EU, has clear responsibilities and indeed binding legal obligations to act to protect democracy and the rule of law. It is their responsibility to confront actors like PiS in situations like this one, to make clear and to convince them that they cannot, as government of a member of the EU, threaten and harass their critics. The time for avoidance and prevarication is over. Now it is time to act.

## Stand with Wojciech – #WithWoj

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This is not a difficult case in substance. Article 10 of the European Convention on Human Rights – which is also the foundation for Article 11 of the EU's Charter of Fundamental Rights – protects freedom of expression, and case law makes clear that sharp criticism of politicians is covered by that protection, and that legal proceedings brought against critics even for harsh political criticism constitutes an unlawful interference with such freedom of expression. For member states of the European Union, the quality of their democracy and protection for fundamental principles such as freedom of expression for political critics is no longer just a matter of national law and interest. Freedom of expression also has a transnational dimension in the European political arena, and repression of political speech at the national level has repercussions for the European political space.

Yet even though the case is a clear and simple one, and the hounding of Sadurski by PiS and its allies is a clear violation of freedom of expression under EU and ECHR law, it seems equally clear from the failure of our efforts thus far to prompt member state governments and EU institutions to intervene to protect him and prevent further legal harassment, that such action is not easy to secure. At this stage the best chance to draw attention to Sadurski's case and to press for action in his case is to call on you, the academic community, to act together with us in a focused, concerted and public way. We propose to do this using **#WithWoj**. Please use it, personalise it and tweet your support! If you don't use social media, please express your support by leaving a comment below. Any attention you can draw to his case, whether through social media, blogging or any other medium is greatly appreciated.



As all too many commentators have recently noted, democracy dies not by a single stroke but by a series of small cuts, when we stand by and fail to notice or to act as each cut is made. Let's keep the spotlight on this instance of being caught-in-the-cutting-act – and do what we can to make a difference together.

Dziękuję – Thank you



## While you are here...

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All the best, *Max Steinbeis*

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